

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DOUGLAS ROBERTS,
Plaintiff,

v.

TRIMAC TRANSPORTATION SERVICES
(WESTERN), INC., a Delaware Corporation,
Defendant.

Case No. 5:12-cv-05302 HRL

**ORDER DENYING REQUEST FOR
VACATUR**

[Re: Dkt. No. 88]

Douglas Roberts sued Trimac Transportation Services (Western), Inc. (Trimac), alleging wage and hour violations under federal and state law. In the course of the litigation, the parties filed several summary judgment motions. Two of the undersigned's orders on those motions resolved issues under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq., in plaintiff's favor. This court ruled that the FLSA does not preempt a claim under California's Business and Professions Code § 17200 and that plaintiff was not exempt from the FLSA's overtime provisions.

The parties subsequently stipulated to the entry of judgment, preserving defendant's right to appeal. (Dkt. 80, Agreed Judgment). Trimac appealed. Through the Ninth Circuit's Mediation Program, the parties reached a settlement conditioned upon this court's vacatur of its orders and the parties' Agreed Judgment. The parties now jointly request vacatur. Having considered their papers, and for the reasons stated below, the court denies the request.

"On motion and just terms, the court may relieve a party or its legal representative from a

final judgment, order, or proceeding,” for several reasons, including that “the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable” or for “any other reason that justifies relief.” Fed. R. Civ. P. 60(b)(5) & (6). In determining whether to vacate a judgment, district courts must consider “the consequences and attendant hardships of dismissal or refusal to dismiss” and “the competing values of finality of judgment and right to relitigation of unreviewed disputes.” Ringsby Truck Lines, Inc. v. Western Conference of Teamsters, 686 F.2d 720, 722 (9th Cir 1982).¹ District courts are not obliged to vacate prior orders or a judgment pursuant to a settlement. Otherwise, “any litigant dissatisfied with a trial court’s findings would be able to have them wiped from the books.” Id. at 721; see also American Games, Inc. v. Trade Products, Inc., 142 F.3d 1164, 1170 (9th Cir. 1998) (“[T]he loser in litigation normally should not be allowed to ‘buy an eraser for the public record.’” (quoting Mancinelli v. Int’l Bus. Machines, 95 F.3d 799, 800 (9th Cir. 1996) (Kleinfeld, J., dissenting))).

With respect to the consequences and attendant hardships of dismissal or refusing to dismiss, each party will benefit from vacatur. Roberts says that he will receive more money pursuant to the settlement than under the previous Agreed Judgment. For its part, Trimac says that it will be spared the uncertainty of continued litigation. And, vacatur will save both sides further costs of appeal.

This court is unpersuaded, however, that vacatur will ultimately serve interests in conserving judicial and public resources or the public interest in the finality of judgment. True, settlement will conserve Ninth Circuit resources that would be expended in deciding this appeal. But, while the issues presented were not overly complex, considerable effort went into the preparation of the orders in question. Although those decisions are not binding precedent, they


¹ Although neither party cited to Ringsby, that case apparently governs the circumstances presented here. Where an appeal is mooted, not by happenstance, but by the appellant’s own conduct, the Ninth Circuit’s usual practice is not to automatically vacate a district court’s decision, but to remand so the district court can decide whether to vacate its judgment. Dilley v. Gunn, 64 F.3d 1365, 1370-71 (9th Cir. 1995) (citing Ringsby, 686 F.2d at 722).

1 may nevertheless provide persuasive guidance to other courts or to other parties in similar
2 circumstances. Denying vacatur might encourage other similarly situated employees to come
3 forward with claims, and Trimac may have a legitimate interest in foreclosing that possibility.
4 Vacating those decisions, however, may mean that other courts will be required to decide the
5 issues over again; and, the public has an interest in knowing whether or not this court got it right.
6 The undersigned recognizes that there is a strong interest in encouraging settlement. But, under
7 the circumstances presented here, this court finds that of greater concern is the interest in
8 preventing possibly needless litigation and the waste of judicial and public resources.

9 The parties' request for vacatur therefore is denied.

10 **SO ORDERED.**

11 Dated: June 30, 2014

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14 HOWARD R. LLOYD
15 UNITED STATES MAGISTRATE JUDGE
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1 5:12-cv-05302-HRL Notice has been electronically mailed to:

2 Christopher Chad McNatt , Jr cmcnatt@scopelitis.com, mlazo@scopelitis.com

3 Christopher James Eckhart ceckhart@scopelitis.com, nberry@scopelitis.com

4 Megan E. Ross mross@michaeltracylaw.com

5 Michael Lion Tracy mtracy@michaeltracylaw.com, calendar@michaeltracylaw.com